

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

IN RE: GENERIC PHARMACEUTICALS
PRICING ANTITRUST LITIGATION

THIS DOCUMENT RELATES TO:

Direct Purchaser Plaintiffs' Actions:

Ahold USA, Inc. et al. v. Actavis Holdco U.S., Inc. et al., 16-CB-27241

Ahold USA, Inc. et al. v. Mylan Inc. et al., 16-CM-27241

Ahold USA, Inc. et al. v. Apotex Corp. et al., 16-PV-27241

MDL 2724
16-MD-2724

HON. CYNTHIA M. RUFFE

PROPOSED PRETRIAL ORDER NO.

**(CASE MANAGEMENT ORDER SCHEDULING DISCOVERY, MOTIONS, AND
OTHER PROCEEDINGS TO BRING DIRECT PURCHASER PLAINTIFFS'
BELLWETHER CASES TO TRIAL)**

AND NOW, this __ day of ____ 2020, upon consideration of the parties' schedules for the discovery, motions, and other proceedings to bring to trial Direct Purchaser Plaintiffs' ("DPPs") clobetasol, clomipramine, and pravastatin class-actions, it is hereby **ORDERED** that the following schedule will govern the DPPs' Bellwether Cases.

A. Fact Discovery Deadlines

The following deadlines shall govern key fact discovery deadlines in DPPs' Bellwether Cases. These deadlines, and all additional deadlines, are listed in Exhibit A.

| Event | Date |
|--|-------------------|
| Defendants to use their best efforts to substantially complete production of Tier 1 custodial documents pursuant to PTO 123. | September 1, 2020 |

| Event | Date |
|---|--|
| Bellwether defendants' data production relating to Bellwether drugs, formulations, and strengths completed. ¹ | September 30, 2020 (substantial completion) |
| | October 16, 2020 (completion) |
| Parties participating in depositions meet and confer to plan the Bellwether deposition schedule, leaving open adding additional deponents as document production is completed and documents are analyzed. | November 2, 2020 |
| Non-bellwether defendants and production of data for non-bellwether drugs, formulations, and strengths in the MDL as of May 1, 2020 (substantial completion) | November 2, 2020 (substantial completion) |
| | November 23, 2020 (completion) |
| Defendants to substantially complete production of all custodial documents pursuant to PTO 123. | November 16, 2020 |
| Depositions for all Bellwether Cases begin. ² | November 30, 2020 |
| Depositions in all Bellwether Cases conclude. | April 25, 2022 |

B. Class Certification Deadlines

The following deadlines shall govern key events related to class certification in the DPPs' Bellwether Cases:

| Event | Date |
|--|----------------|
| Completion of meet and confers regarding page limits and number of briefs to be filed in support of, or in opposition to, class certification. | July 1, 2021 |
| Plaintiffs' motions for class certification in Bellwether Cases, and expert reports on which they rely for class certification. | August 2, 2021 |

¹ All deadlines beginning in section B and continuing throughout this schedule will not be possible, and will need to be adjusted, if Bellwether data is not produced by these dates.

² All deadlines in sections B, C, D and E will not be possible, and will need to be adjusted, if Plaintiffs are limited to deposing Bellwether witnesses only once. In addition, such deadlines may need to be modified if the limited stay of depositions under PTO 126 (or subsequent modifications thereof) becomes an obstacle to prioritizing Bellwether depositions.

| Event | Date |
|---|---|
| Depositions of Plaintiffs' class certification experts conclude. ³ | September 20, 2021 |
| Defendants' oppositions to class certification, <i>Daubert</i> motions, and expert reports to be filed on which Defendants rely in opposition. | October 29, 2021 |
| Depositions of Defendants' class certification experts conclude. | December 20, 2021 |
| DPPs' replies in support of class certification, DPPs' expert reports in support of class certification, DPPs' oppositions to Defendants' <i>Daubert</i> motions, and DPPs' <i>Daubert</i> motions. | February 7, 2022 |
| Defendants' oppositions to Plaintiffs' <i>Daubert</i> motions and replies in support of Defendants' <i>Daubert</i> motions | March 2, 2022 |
| Depositions of any new rebuttal experts conclude. | March 7, 2022 |
| Plaintiffs' replies in support of their <i>Daubert</i> motions | March 14, 2022 |
| Hearings on class certification. | <i>To be determined by the Court.</i> |
| Deadline for submitting a notice plan and any related requests under Fed. R. Civ. P. 23(d) | <i>Within 30 days of any Order granting class certification under Fed. R. Civ. P. 23(a)-(b), or at such other time as the Court may Order.</i> ⁴ |

C. Merits Experts Deadlines

The below deadlines shall govern the following key events related to Merit Experts in DPPs' bellwether cases:

| Event | Date |
|---|------------------|
| DPPs to serve merits expert reports. | January 14, 2022 |
| Depositions of merits experts conclude. | March 1, 2022 |

³ Each expert described in this Bellwether schedule may be deposed only once absent good cause.

⁴ In connection with a certified class class or settlement class to be certified under Fed. R. Civ. P. 23(e), a notice plan and any related requests under Fed. R. Civ. P. 23(d) shall be submitted to the Court for its consideration.

| Event | Date |
|---|----------------|
| Defendants to serve merits expert reports. | March 18, 2022 |
| Depositions of Defendants' merits experts conclude. | April 29, 2022 |
| DPPs to serve rebuttal expert reports. | May 31, 2022 |

D. Deadlines for Motions to Bring Cases to Trial

The below deadlines shall govern the following key motions required to bring DPPs' Bellwether Cases to trial:

| Event | Date |
|--|----------------|
| Completion of meet and confers regarding page limits and number of briefs to be filed in support of, or in opposition to, summary judgment | May 9, 2022 |
| Parties may file motions and supporting briefs for summary judgment. | June 7, 2022 |
| Last date to file any motions <i>in limine</i> . | July 19, 2022 |
| Oppositions to any motions for summary judgment to be filed. | July 7, 2022 |
| Responses to any motions <i>in limine</i> . | August 2, 2022 |
| Replies in support of any motions <i>in limine</i> . | August 9, 2022 |
| Replies in support of any motions for summary judgment to be filed. | August 8, 2022 |

E. Bellwether Trials

Trial shall proceed on the following schedule for the DPPs' Bellwether Cases:

| Event | Date |
|--|--|
| Pretrial planning conference to resolve any DPP pretrial matters, such as <i>voir dire</i> and other trial procedures. | September 8, 2022 & September 12, 2022 (as needed) |
| Jury selection in DPPs' Bellwether trial. | September 29, 2022 |

| Event | Date |
|--|-----------------|
| Trial begins, opening statements in DPPs' Bellwether trials. | October 3, 2022 |

For ease of reference, attached is Exhibit A, a sequential schedule that lists all the deadlines in chronological order with each event labeled.

It is so **ORDERED**.

Dated: September ___, 2020

BY THE COURT:

Cynthia M. Rufe, J.

EXHIBIT A – DIRECT PURCHASER PLAINTIFFS’ PROPOSED SCHEDULE

| Date | Event |
|---------------------------------------|---|
| September 1, 2020 | Defendants to use their best efforts to substantially complete production of Tier 1 custodial documents pursuant to PTO 123. |
| September 30, 2020 | Bellwether defendants’ data production relating to Bellwether drugs, formulations, and strengths (substantial completion). |
| October 16, 2020 | Bellwether defendants’ data production relating to Bellwether drugs, formulations, and strengths (completion) |
| November 2, 2020 | Parties participating in depositions meet and confer to plan the Bellwether deposition schedule, leaving open adding additional deponents as document production is completed and documents are analyzed. |
| November 2, 2020 | Non-bellwether defendants and production of data for non-bellwether drugs, formulations, and strengths in the MDL as of May 1, 2020 (substantial completion) |
| November 16, 2020 | Defendants to substantially complete production of all custodial documents pursuant to PTO 123. |
| November 23, 2020 | Non-bellwether defendants and production of data for non-bellwether drugs, formulations, and strengths in the MDL as of May 1, 2020 (completion) |
| November 30, 2020 | Fact depositions for all cases begin. |
| July 1, 2021 | Completion of meet and confers regarding page limits and number of briefs to be filed in support of, or in opposition to, class certification. |
| August 2, 2021 | DPPs file motions for class certification in Bellwether Cases, and expert reports on which they rely for class certification. |
| September 20, 2021 | Depositions of DPPs’ class certification experts conclude. |
| October 29, 2021 | Defendants’ opposition to DPPs’ class certification, <i>Daubert</i> motions regarding DPPs, and any expert reports to be filed on which Defendants rely in opposition. |
| December 20, 2021 | Depositions of Defendants’ class certification experts in DPPs’ Bellwethers conclude. |
| January 14, 2022 | DPPs to serve merits expert reports. |
| February 7, 2022 | DPPs’ replies in support of class certification, DPPs’ expert reports in support of class certification, DPPs’ oppositions to Defendants’ <i>Daubert</i> motions, and DPPs’ <i>Daubert</i> motions. |
| March 1, 2022 | Depositions of DPPs’ merits experts conclude. |
| March 2, 2022 | Defendants’ oppositions to DPPs’ <i>Daubert</i> motions and replies in support of Defendants’ <i>Daubert</i> motions |
| March 7, 2022 | Depositions of any new <i>Daubert</i> rebuttal experts conclude in DPPs’ Bellwethers. |
| March 14, 2022 | DPPs’ replies in support of their <i>Daubert</i> motions. |
| March 18, 2022 | Defendants to serve merits expert reports in DPPs’ Bellwethers. |
| <i>To be determined by the Court.</i> | Hearings on class certification begin. |

| Date | Event |
|--|---|
| <i>Within 30 days of any Order granting class Certification under Fed. R. Civ. P. 23(a)-(b), or at such other time as the Court may Order.</i> | Deadline for submitting a notice plan and any related requests under Fed. R. Civ. P. 23(d). |
| April 25, 2022 | Fact Depositions conclude. |
| April 29, 2022 | Depositions of Defendants' merits experts conclude. |
| May 9, 2022 | Completion of meet and confers regarding page limits and number of briefs to be filed in support of, or in opposition to, summary judgment in DPPs' Bellwether cases. |
| May 31, 2022 | DPPs' to file any merits rebuttal expert reports. |
| June 7, 2022 | Parties in DPPs' Bellwethers may file motions and supporting briefs for summary judgment. |
| July 7, 2022 | Oppositions to any motions for summary judgment in DPPs' cases to be filed. |
| July 19, 2022 | Last date to file any motions <i>in limine</i> in DPPs' Bellwether. |
| August 2, 2022 | Responses to any motions <i>in limine</i> in DPPs' Bellwether. |
| August 8, 2022 | Replies in support of any motions for summary judgment in DPPs' Bellwether cases to be filed. |
| August 9, 2022 | Replies in support of any motions <i>in limine</i> in DPPs' Bellwether. |
| & September 8, 2022 & September 12, 2022 (as needed) | Final pretrial conference for DPPs' Bellwethers to resolve all pretrial matters, such as <i>voir dire</i> and other trial procedures. |
| September 29, 2022 | Jury selection in DPPs' Bellwether trials. |
| October 3, 2022 | Trial begins, opening statements in DPPs' Bellwether trials. |